

# **Notice of Allowability**

Application No.

10/849,408

Examiner

Necholus Ogden

Applicant(s)

ZHANG ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--  
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1-14-05.
2. ☒ The allowed claim(s) is/are 1-5.
3. ☒ The drawings filed on 19 May 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 1-20-05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Necholus Ogden  
Primary Examiner  
Art Unit 1751

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ron Koatz on January 20, 2005.

The application has been amended as follows:

Cancel claim 6.

The following is an examiner's statement of reasons for allowance:

The examiner contends that Chambers does not teach or suggest applicant's criticality of maintaining both high ratio of free fatty acid total fatty matter and high ratio filler to total fatty matter to achieve higher opacity for consumer desirability and yield a more creamy look for the bar composition.

First, applicants note that Chambers does not require that both (1) ratio of free fatty acid to TFM be equal to or greater than 0.15 (as amended); and (2) ratio of filler to TFM be equal to or greater than 0.3. Indeed ratio of FFA to total fatty matter could be 3 to 63 (e.g., 3% fatty acid and 60% soap) or 0.0476, and filler could be absent altogether (0% to 30% filler). Generally, the lower ratio of free fatty acid to TFM would produce bars which do not lather very well (see Comparative A at page 12-13 when no FFA is used). Further, as applicants have noted in the specification, the person of ordinary skill

in the art would not be inclined to increase levels of free fatty acid because the bar could well become unprocessable (see page 1, lines 24-26 of the specification).

In addition, a bar with no filler would ensure that high free fatty acid bars would be unprocessable (since there was no teaching prior to the subject invention that high filler could counteract effect of high free fatty acid) yet, in the presence of only smaller amounts of filler that the person of ordinary skill in the art would feel comfortable using, the bars would tend to be less opaque, i.e., less creamy looking (see Examples 2 and 3 versus Examples 1 and 4).

In short, the crux of the subject invention is the very delicate balancing between ratio of FFA to TFM and ratio of filler to TFM. It is only when both these are delicately balanced that there is achieved bars which are processable, lather well and have an opaque, creamy appearance. The Chambers reference fails to recognize these criticalities and offers many, if not all, possible bar ranges where the benefits of the subject invention would not be obtained.

With regard to the specific Example 3 in Chambers, applicants note that ratio of FFA (coconut fatty acid) to TFM would be 6.8 to 66.9 or about 0.1 (above 0.06 of original claims) and ratio of filler to TFM of 20 to 66.9 or about .298.

First, applicants note that the ratio of FFA to TFM in the reference (0.1) is now outside the range of the amended claims (now 0.15). For reasons noted, there would be no incentive for Chambers to raise the level of fatty acid much higher while simultaneously raising level of filler (note that filler is used only at the lowest level of free fatty acid in Example 1-5) because of fear of forming crumbly bars. Further, where filler to TFM ratio is not even higher (Example 3 versus Examples 1 and 4 at pages 12-13), the bars will not obtain desirable opaque, creamy-looking appearance. In our invention, the opacity is marginal perhaps at the lowest 0.3 ratio of filler to TFM (see Example 3), but we have added benefit of higher free fatty acid to TFM ratio which we demonstrated gives enhanced lather. There is clearly no motivation in Chambers to

have approached simultaneously our high ratio of FFA to TFM and high ratio of filler to TFM.

2. Accordingly, in view of the criticality discussed above, the claims are allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T and Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/849,408  
Art Unit: 1751

Page 5



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No  
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